

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1382/P1

TJD:.....

In: _____

DOA:.....Palchik, BB0361 - Wisconsin Quality Home Care Authority
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

TODAY

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES ✓

OTHER HEALTH AND HUMAN SERVICES ✓

This is a preliminary draft. Analysis will be provided in a subsequent draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 7.33 (1) (c) of the statutes is amended to read:

3 7.33 (1) (c) "State agency" has the meaning given under s. 20.001 (1) and
4 includes an authority created under subch. II of ch. 114 or ch. 52, 231, 232, 233, 234,
5 or 237.

History: 1977 c. 398; 1979 c. 260 s. 44; Stats. 1979 s. 7.33; 1987 a. 111; 1987 a. 391 ss. 37m, 41g, 41r; 1989 a. 56 s. 259; 1995 a. 27; 2001 a. 16, 104, 109; 2003 a. 33; 2005 a. 335, 451.

6 SECTION 2. 13.172 (1) of the statutes is amended to read:

7 13.172 (1) In this section, "agency" means an office, department, agency,
8 institution of higher education, association, society, or other body in state

1 government created or authorized to be created by the constitution or any law, that
2 is entitled to expend moneys appropriated by law, including the legislature and the
3 courts, and any authority created in subch. II of ch. 114 or subch. III of ch. 149 or in
4 ch. 52, 231, 233, 234, or 279.

History: 1983 a. 524; 1987 a. 399; 1995 a. 27; 2005 a. 74, 335; 2007 a. 20, 97.

5 **SECTION 3.** 13.48 (13) (a) of the statutes is amended to read:

6 13.48 (13) (a) Except as provided in par. (b) or (c), every building, structure or
7 facility that is constructed for the benefit of or use of the state, any state agency,
8 board, commission or department, the University of Wisconsin Hospitals and Clinics
9 Authority, the Fox River Navigational System Authority, the Wisconsin Quality
10 Home Care Authority, or any local professional baseball park district created under
11 subch. III of ch. 229 if the construction is undertaken by the department of
12 administration on behalf of the district, shall be in compliance with all applicable
13 state laws, rules, codes and regulations but the construction is not subject to the
14 ordinances or regulations of the municipality in which the construction takes place
15 except zoning, including without limitation because of enumeration ordinances or
16 regulations relating to materials used, permits, supervision of construction or
17 installation, payment of permit fees, or other restrictions.

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 335 s. 13; 1975 c. 39, 40, 198, 199; 1977 c. 26; 1977 c. 29 ss. 7, 8r, 1654 (8) (c); 1977 c. 325; 1977 c. 418 ss.
5, 5m, 924 (18) (c); 1979 c. 34, 221, 350; 1981 c. 341; 1983 a. 27 ss. 11 to 12n, 2202 (5); 1983 a. 36 ss. 18 to 20, 96 (3); 1983 a. 207; 1985 a. 29, 120; 1987 a. 27, 186, 395, 399;
1989 a. 31, 366; 1991 a. 39, 269, 315; 1993 a. 16, 288, 414; 1995 a. 27, 216, 225, 227; 1997 a. 5, 27, 35, 237; 1999 a. 9; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 16, 103; 2003
a. 33 ss. 25 to 26i, 9160; 2003 a. 91; 2005 a. 25, 253, 391; 2007 a. 20.

18 **SECTION 4.** 13.62 (2) of the statutes is amended to read:

19 13.62 (2) "Agency" means any board, commission, department, office, society,
20 institution of higher education, council, or committee in the state government, or any
21 authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 232,

1 233, 234, 237, or 279, except that the term does not include a council or committee
2 of the legislature.

History: 1977 c. 278; 1979 c. 260 s. 94; 1979 c. 328 s. 146; 1983 a. 27, 36; 1987 a. 399; 1989 a. 338; 1991 a. 32; 1993 a. 112; 1995 a. 27; 1999 a. 9, 185; 2001 a. 16; 2005 a. 74, 335, 463; 2007 a. 1, 20, 97.

3 **SECTION 5.** 13.94 (4) (a) 1. of the statutes is amended to read:

4 13.94 (4) (a) 1. Every state department, board, examining board, affiliated
5 credentialing board, commission, independent agency, council or office in the
6 executive branch of state government; all bodies created by the legislature in the
7 legislative or judicial branch of state government; any public body corporate and
8 politic created by the legislature including specifically the Wisconsin Quality Home
9 Care Authority, the Fox River Navigational System Authority, the Lower Fox River
10 Remediation Authority, and the Wisconsin Aerospace Authority, a professional
11 baseball park district, a local professional football stadium district, a local cultural
12 arts district and a long-term care district under s. 46.2895; every Wisconsin works
13 agency under subch. III of ch. 49; every provider of medical assistance under subch.
14 IV of ch. 49; technical college district boards; development zones designated under
15 s. 560.71; every county department under s. 51.42 or 51.437; every nonprofit
16 corporation or cooperative or unincorporated cooperative association to which
17 moneys are specifically appropriated by state law; and every corporation, institution,
18 association or other organization which receives more than 50% of its annual budget
19 from appropriations made by state law, including subgrantee or subcontractor
20 recipients of such funds.

History: 1971 c. 270 s. 104; 1971 c. 307; 1973 c. 334; 1975 c. 39, 199, 224, 421; 1977 c. 26, 29; 1977 c. 196 s. 131; 1977 c. 418; 1979 c. 34, 314, 324; 1981 c. 20, 335; 1983 a. 27, 36, 96, 381; 1985 a. 29, 57, 120, 176; 1987 a. 27, 119, 186, 320, 328, 354, 399, 403; 1989 a. 31, 122; 1991 a. 39, 269, 316; 1993 a. 16, 27, 107, 263, 399, 491; 1995 a. 27 ss. 43g to 47n, 9116 (5); 1995 a. 56, 216, 225, 274, 289; 1997 a. 27, 252; 1999 a. 9, 65, 105, 167, 197; 2001 a. 16, 105; 2003 a. 33, 111; 2005 a. 25, 74, 142, 335, 441; 2007 a. 1, 20, 96, 125, 126.

21 **SECTION 6.** 13.95 (intro.) of the statutes is amended to read:

22 **13.95 Legislative fiscal bureau.** (intro.) There is created a bureau to be
23 known as the "Legislative Fiscal Bureau" headed by a director. The fiscal bureau

1 shall be strictly nonpartisan and shall at all times observe the confidential nature
2 of the research requests received by it; however, with the prior approval of the
3 requester in each instance, the bureau may duplicate the results of its research for
4 distribution. Subject to s. 230.35 (4) (a) and (f), the director or the director's
5 designated employees shall at all times, with or without notice, have access to all
6 state agencies, the University of Wisconsin Hospitals and Clinics Authority, the
7 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,
8 the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care
9 Authority, and the Fox River Navigational System Authority, and to any books,
10 records, or other documents maintained by such agencies or authorities and relating
11 to their expenditures, revenues, operations, and structure.

History: 1971 c. 215; 1973 c. 333 and supp.; 1975 c. 39; 1977 c. 196 s. 131; 1977 c. 273, 418; 1979 c. 34; 1983 a. 27; 1991 a. 316; 1995 a. 27, 225; 1999 a. 185; 2001 a. 16; 2005 a. 25, 74, 335; 2007 a. 20, 97.

12 **SECTION 7.** 16.002 (2) of the statutes is amended to read:

13 16.002 (2) "Departments" means constitutional offices, departments, and
14 independent agencies and includes all societies, associations, and other agencies of
15 state government for which appropriations are made by law, but not including
16 authorities created in subch. II of ch. 114 or subch. III of ch. 149 and in chs. 52, 231,
17 232, 233, 234, 235, 237, and 279.

History: 1977 c. 196; 1983 a. 27, 189; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97.

18 **SECTION 8.** 16.004 (4) of the statutes is amended to read:

19 16.004 (4) FREEDOM OF ACCESS. The secretary and such employees of the
20 department as the secretary designates may enter into the offices of state agencies
21 and authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under
22 chs. 52, 231, 233, 234, 237, and 279, and may examine their books and accounts and

any other matter that in the secretary's judgment should be examined and may interrogate the agency's employees publicly or privately relative thereto.

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316; 1993 a. 496; 1995 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33 ss. 140 to 141f, 9160; 2005 a. 25, 74, 335; 2007 a. 20, 97.

SECTION 9. 16.004 (5) of the statutes is amended to read:

16.004 (5) AGENCIES AND EMPLOYEES TO COOPERATE. All state agencies and authorities created under subch. II of ch. 114 or subch. III of ch. 149 and under chs. 52, 231, 233, 234, 237, and 279, and their officers and employees, shall cooperate with the secretary and shall comply with every request of the secretary relating to his or her functions.

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316; 1993 a. 496; 1995 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33 ss. 140 to 141f, 9160; 2005 a. 25, 74, 335; 2007 a. 20, 97.

SECTION 10. 16.004 (12) (a) of the statutes is amended to read:

16.004 (12) (a) In this subsection, "state agency" means an association, authority, board, department, commission, independent agency, institution, office, society, or other body in state government created or authorized to be created by the constitution or any law, including the legislature, the office of the governor, and the courts, but excluding the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, and the Fox River Navigational System Authority.

History: 1971 c. 270; 1973 c. 333; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 196 ss. 21, 130 (3); 1977 c. 272; 1979 c. 34, 221, 357; 1981 c. 20 ss. 3v, 55d, 55m; 1983 a. 27 ss. 58, 2202 (49) (a); 1983 a. 524; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27; 1989 a. 335; 1991 a. 39, 316; 1993 a. 496; 1995 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33 ss. 140 to 141f, 9160; 2005 a. 25, 74, 335; 2007 a. 20, 97.

SECTION 11. 16.045 (1) (a) of the statutes is amended to read:

16.045 (1) (a) "Agency" means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the

1 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
2 ch. 149 or in ch. 52, 231, 232, 233, 234, 235, 237, or 279.

History: 1993 a. 351; 1995 a. 27; 1997 a. 73; 2001 a. 16; 2003 a. 311; 2005 a. 74, 83, 335; 2007 a. 20, 97.

3 **SECTION 12.** 16.15 (1) (ab) of the statutes is amended to read:

4 16.15 (1) (ab) "Authority" has the meaning given under s. 16.70 (2), but
5 excludes the University of Wisconsin Hospitals and Clinics Authority, the Lower Fox
6 River Remediation Authority, the Wisconsin Quality Home Care Authority, and the
7 Health Insurance Risk-Sharing Plan Authority.

History: 1987 a. 292; 1989 a. 335; 1995 a. 27, 227; 1999 a. 9; 2005 a. 74; 2007 a. 20.

8 **SECTION 13.** 16.41 (4) of the statutes is amended to read:

9 16.41 (4) In this section, "authority" means a body created under subch. II of
10 ch. 114 or subch. III of ch. 149 or under ch. 52, 231, 233, 234, 237, or 279.

History: 1977 c. 196 s. 130 (3); 1977 c. 272, 273; 1983 a. 27; 1987 a. 399; 1995 a. 27; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97.

11 **SECTION 14.** 16.417 (1) (b) of the statutes is amended to read:

12 16.417 (1) (b) "Authority" means a body created under subch. II of ch. 114 or
13 ch. 52, 231, 232, 233, 234, 235, 237, or 279.

History: 1987 a. 365 ss. 1, 4m; 1987 a. 399; 1989 a. 56 s. 259; 1993 a. 362; 1997 a. 27; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20.

14 **SECTION 15.** 16.52 (7) of the statutes is amended to read:

15 16.52 (7) PETTY CASH ACCOUNT. Petty cash account. With the approval of the
16 secretary, each agency that is authorized to maintain a contingent fund under s.
17 20.920 may establish a petty cash account from its contingent fund. The procedure
18 for operation and maintenance of petty cash accounts and the character of
19 expenditures therefrom shall be prescribed by the secretary. In this subsection,
20 "agency" means an office, department, independent agency, institution of higher
21 education, association, society, or other body in state government created or
22 authorized to be created by the constitution or any law, that is entitled to expend
23 moneys appropriated by law, including the legislature and the courts, but not

1 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
2 52, 231, 233, 234, 237, or 279.

History: 1971 c. 125, 261; 1973 c. 243; 1975 c. 41 s. 52; 1977 c. 29; 1977 c. 196 s. 130 (3), (4); 1977 c. 272, 273, 418; 1979 c. 34 ss. 65 to 67, 2102 (43) (a); 1981 c. 14; 1983 a. 27 ss. 73, 74, 2202 (42); 1983 a. 368; 1985 a. 29; 1987 a. 399; 1989 a. 31, 336, 359; 1991 a. 39, 316; 1995 a. 27 ss. 296, 297, 9145 (1); 1997 a. 27; 2001 a. 16; 2003 a. 33; 2005 a. 25, 74, 335; 2007 a. 20, 97.

3 **SECTION 16.** 16.528 (1) (a) of the statutes is amended to read:

4 16.528 (1) (a) "Agency" means an office, department, independent agency,
5 institution of higher education, association, society, or other body in state
6 government created or authorized to be created by the constitution or any law, that
7 is entitled to expend moneys appropriated by law, including the legislature and the
8 courts, but not including an authority created in subch. II of ch. 114 or subch. III of
9 ch. 149 or in ch. 52, 231, 233, 234, 237, or 279.

History: 1985 a. 300; 1987 s. 312 s. 17; 1987 a. 399; 1989 a. 233; 1991 a. 39; 1995 a. 27, 241; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108; 2005 a. 74, 335; 2007 a. 20, 97.

10 **SECTION 17.** 16.53 (2) of the statutes is amended to read:

11 16.53 (2) IMPROPER INVOICES. If an agency receives an improperly completed
12 invoice, the agency shall notify the sender of the invoice within 10 working days after
13 it receives the invoice of the reason it is improperly completed. In this subsection,
14 "agency" means an office, department, independent agency, institution of higher
15 education, association, society, or other body in state government created or
16 authorized to be created by the constitution or any law, that is entitled to expend
17 moneys appropriated by law, including the legislature and the courts, but not
18 including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch.
19 52, 231, 233, 234, 237, or 279.

History: 1971 c. 100 s. 23; 1971 c. 215, 261; Sup. Ct. Order, 67 Wis. 2d 585, 773 (1975); 1975 c. 39, 164, 198, 397, 422; 1977 c. 29, 196, 418; 1979 c. 34, 221; 1981 c. 1, 20; 1983 a. 3, 27, 192, 368; 1985 a. 29, 300; 1985 a. 332 ss. 15, 251 (1); 1987 a. 399; 1989 a. 31; 1989 a. 125 ss. 1, 10; 1991 a. 39, 316; 1993 a. 80, 399; 1995 a. 27 ss. 301, 302, 9126 (19), 9130 (4); 1997 a. 3; 2001 a. 16; 2003 a. 33, 117, 171; 2005 a. 74, 335; 2007 a. 20 ss. 90b, 91, 9121 (6) (a); 2007 a. 97.

20 **SECTION 18.** 16.54 (9) (a) 1. of the statutes is amended to read:

21 16.54 (9) (a) 1. "Agency" means an office, department, independent agency,
22 institution of higher education, association, society or other body in state

government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, or 279.

History: 1973 c. 333; 1975 c. 39 ss. 69, 732 (1); 1975 c. 224; 1977 c. 418; 1979 c. 34; 1981 c. 27; 1983 a. 27, 208, 470; 1985 a. 29; 1987 a. 4, 27, 186, 399, 403; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 303 to 307, 9126 (19); 1995 a. 132, 225; 1999 a. 9, 74; 2001 a. 16; 2003 a. 33; 2005 a. 25, 74, 335; 2007 a. 20 ss. 92b, 95, 98, 9121 (6) (a); 2007 a. 97.

SECTION 19. 16.70 (2) of the statutes is amended to read:

16.70 (2) "Authority" means a body created under subch. II of ch. 114 or subch. III of ch. 149 or under ch. 52, 231, 232, 233, 234, 235, 237, or 279.

History: 1971 c. 164; 1975 c. 41 s. 52; 1977 c. 29; 1979 c. 34, 221; 1983 a. 27, 106; 1985 a. 29 ss. 122a to 122f, 3200 (1); 1987 a. 292, 399; 1989 a. 335; 1991 a. 39, 189; 1993 a. 263, 399; 1995 a. 27, 56; 1997 a. 27; 1999 a. 65, 167; 2001 a. 16, 38; 2003 a. 33; 2005 a. 74, 89, 335; 2007 a. 20, 97.

SECTION 20. 16.765 (1) of the statutes is amended to read:

16.765 (1) Contracting agencies, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, and the Bradley Center Sports and Entertainment Corporation shall include in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01 (5), sexual orientation as defined in s. 111.32 (13m), or national origin and, except with respect to sexual orientation, obligating the contractor to take affirmative action to ensure equal employment opportunities.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97.

SECTION 21. 16.765 (2) of the statutes is amended to read:

16.765 (2) Contracting agencies, the University of Wisconsin Hospitals and Clinics Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower

1 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, and
2 the Bradley Center Sports and Entertainment Corporation shall include the
3 following provision in every contract executed by them: "In connection with the
4 performance of work under this contract, the contractor agrees not to discriminate
5 against any employee or applicant for employment because of age, race, religion,
6 color, handicap, sex, physical condition, developmental disability as defined in s.
7 51.01 (5), sexual orientation or national origin. This provision shall include, but not
8 be limited to, the following: employment, upgrading, demotion or transfer;
9 recruitment or recruitment advertising; layoff or termination; rates of pay or other
10 forms of compensation; and selection for training, including apprenticeship. Except
11 with respect to sexual orientation, the contractor further agrees to take affirmative
12 action to ensure equal employment opportunities. The contractor agrees to post in
13 conspicuous places, available for employees and applicants for employment, notices
14 to be provided by the contracting officer setting forth the provisions of the
15 nondiscrimination clause".

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97.

16 **SECTION 22.** 16.765 (4) of the statutes is amended to read:

17 16.765 (4) Contracting agencies, the University of Wisconsin Hospitals and
18 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
19 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
20 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, and
21 the Bradley Center Sports and Entertainment Corporation shall take appropriate
22 action to revise the standard government contract forms under this section.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97.

23 **SECTION 23.** 16.765 (5) of the statutes is amended to read:

1 16.765 (5) The head of each contracting agency and the boards of directors of
2 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
3 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
4 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
5 Authority, the Wisconsin Quality Home Care Authority, and the Bradley Center
6 Sports and Entertainment Corporation shall be primarily responsible for obtaining
7 compliance by any contractor with the nondiscrimination and affirmative action
8 provisions prescribed by this section, according to procedures recommended by the
9 department. The department shall make recommendations to the contracting
10 agencies and the boards of directors of the University of Wisconsin Hospitals and
11 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
12 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
13 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, and
14 the Bradley Center Sports and Entertainment Corporation for improving and
15 making more effective the nondiscrimination and affirmative action provisions of
16 contracts. The department shall promulgate such rules as may be necessary for the
17 performance of its functions under this section.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97.

18 **SECTION 24.** 16.765 (6) of the statutes is amended to read:

19 16.765 (6) The department may receive complaints of alleged violations of the
20 nondiscrimination provisions of such contracts. The department shall investigate
21 and determine whether a violation of this section has occurred. The department may
22 delegate this authority to the contracting agency, the University of Wisconsin
23 Hospitals and Clinics Authority, the Fox River Navigational System Authority, the
24 Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority,

1 the Lower Fox River Remediation Authority, the Wisconsin Quality Home Care
2 Authority, or the Bradley Center Sports and Entertainment Corporation for
3 processing in accordance with the department's procedures.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97.

4 **SECTION 25.** 16.765 (7) (intro.) of the statutes is amended to read:

5 16.765 (7) (intro.) When a violation of this section has been determined by the
6 department, the contracting agency, the University of Wisconsin Hospitals and
7 Clinics Authority, the Fox River Navigational System Authority, the Wisconsin
8 Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Lower
9 Fox River Remediation Authority, the Wisconsin Quality Home Care Authority, or
10 the Bradley Center Sports and Entertainment Corporation, the contracting agency,
11 the University of Wisconsin Hospitals and Clinics Authority, the Fox River
12 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
13 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation
14 Authority, the Wisconsin Quality Home Care Authority, or the Bradley Center Sports
15 and Entertainment Corporation shall:

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97.

16 **SECTION 26.** 16.765 (7) (d) of the statutes is amended to read:

17 16.765 (7) (d) Direct the violating party to take immediate steps to prevent
18 further violations of this section and to report its corrective action to the contracting
19 agency, the University of Wisconsin Hospitals and Clinics Authority, the Fox River
20 Navigational System Authority, the Wisconsin Aerospace Authority, the Health
21 Insurance Risk-Sharing Plan Authority, the Lower Fox River Remediation

1 Authority, the Wisconsin Quality Home Care Authority, or the Bradley Center Sports
2 and Entertainment Corporation.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97.

3 **SECTION 27.** 16.765 (8) of the statutes is amended to read:

4 16.765 (8) If further violations of this section are committed during the term
5 of the contract, the contracting agency, the Fox River Navigational System Authority,
6 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
7 Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home
8 Care Authority, or the Bradley Center Sports and Entertainment Corporation may
9 permit the violating party to complete the contract, after complying with this section,
10 but thereafter the contracting agency, the Fox River Navigational System Authority,
11 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
12 Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home
13 Care Authority, or the Bradley Center Sports and Entertainment Corporation shall
14 request the department to place the name of the party on the ineligible list for state
15 contracts, or the contracting agency, the Fox River Navigational System Authority,
16 the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan
17 Authority, the Lower Fox River Remediation Authority, the Wisconsin Quality Home
18 Care Authority, or the Bradley Center Sports and Entertainment Corporation may
19 terminate the contract without liability for the uncompleted portion or any materials
20 or services purchased or paid for by the contracting party for use in completing the
21 contract.

History: 1975 c. 94, 189, 275, 422; 1977 c. 29, 418; 1981 c. 112; 1981 c. 334 s. 25 (2); 1981 c. 391 s. 210; 1985 a. 26; 1985 a. 29 s. 3200 (1); 1995 a. 27 ss. 386 to 389, 9130 (4); 1995 a. 225; 1997 a. 3; 2001 a. 16; 2005 a. 74, 335; 2007 a. 20, 97.

22 **SECTION 28.** 16.85 (2) of the statutes is amended to read:

1 16.85 (2) To furnish engineering, architectural, project management, and other
2 building construction services whenever requisitions therefor are presented to the
3 department by any agency. The department may deposit moneys received from the
4 provision of these services in the account under s. 20.505 (1) (kc) or in the general
5 fund as general purpose revenue — earned. In this subsection, “agency” means an
6 office, department, independent agency, institution of higher education, association,
7 society, or other body in state government created or authorized to be created by the
8 constitution or any law, which is entitled to expend moneys appropriated by law,
9 including the legislature and the courts, but not including an authority created in
10 subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 233, 234, 237, or 279.

History: 1971 c. 42; 1973 c. 90; 1973 c. 335 s. 13; 1977 c. 29 s. 1654 (8) (c); 1979 c. 221; 1983 a. 36 s. 96 (4); 1985 a. 29; 1987 a. 142, 399; 1989 a. 31, 336; 1991 a. 39, 269, 316; 1993 a. 263; 1995 a. 27 ss. 398 to 400, 9116 (5), 9126 (19), 9130 (4); 1997 a. 27; 1999 a. 197; 2001 a. 16; 2005 a. 74, 149, 335; 2007 a. 20 ss. 115b, 9121 (6) (a); 2007 a. 97.

11 **SECTION 29.** 16.865 (8) of the statutes is amended to read:

12 16.865 (8) Annually in each fiscal year, allocate as a charge to each agency a
13 proportionate share of the estimated costs attributable to programs administered by
14 the agency to be paid from the appropriation under s. 20.505 (2) (k). The department
15 may charge premiums to agencies to finance costs under this subsection and pay the
16 costs from the appropriation on an actual basis. The department shall deposit all
17 collections under this subsection in the appropriation account under s. 20.505 (2) (k).
18 Costs assessed under this subsection may include judgments, investigative and
19 adjustment fees, data processing and staff support costs, program administration
20 costs, litigation costs, and the cost of insurance contracts under sub. (5). In this
21 subsection, “agency” means an office, department, independent agency, institution
22 of higher education, association, society, or other body in state government created
23 or authorized to be created by the constitution or any law, that is entitled to expend
24 moneys appropriated by law, including the legislature and the courts, but not

including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 52, 231, 232, 233, 234, 235, 237, or 279.

History: 1973 c. 333; 1975 c. 81, 189, 422; 1977 c. 29; 1977 c. 196 s. 130 (3); 1979 c. 34, 221; 1981 c. 20; 1985 a. 29; 1987 a. 399; 1989 a. 125; 1991 a. 39; 1993 a. 16; 1995 a. 27; 2001 a. 16; 2003 a. 33; 2005 a. 74, 335; 2007 a. 20, 97.

SECTION 30. 19.42 (10) (s) of the statutes is created to read:

19.42 (10) (s) The executive director and board of directors of the Wisconsin Quality Home Care Authority.

SECTION 31. 46.284 (4) (m) of the statutes is created to read:

46.284 (4) (m) Comply with any agreements under subch. V of ch. 111 relating to a provider, as defined in 46.2898 (1) (d), hired directly by an enrollee.

SECTION 32. 46.2898 of the statutes is created to read:

46.2898 Quality home care. (1) DEFINITIONS. In this section:

(a) "Authority" means the Wisconsin Quality Home Care Authority.

(b) "Care management organization" has the meaning given in s. 46.2805 (1).

(d) "Provider" means an individual providing home care services who is not any of the following:

1. An employee of a home health agency, licensed under s. 50.49, who is hired through that home health agency.

2. An employee of a personal care provider agency who is hired through that personal care provider agency.

3. A health care provider, as defined in s. 146.997 (1) (d) acting in his or her professional capacity.

(e) "Qualified provider" means a provider of home care services meeting the qualifications for payment through the family care benefit, ^{the} Program for All-Inclusive Care for the Elderly, or a medical assistance waiver program and any

operated under
42 USC 1396u-4

operated under a
waiver from the secretary
of the federal department of
health and human services under
42 USC 1396n (c) or 42 USC 1396n (b) and (c)

1 qualifications ^{criteria established in the rules promulgated under sub. (7)} set by the department by rule and ^{who the authority determines is} being eligible for entry on the
 2 registry maintained by the authority. ^{placement} under s. 52.20(1) ^{require}

3 (2) COUNTY PARTICIPATION. (a) A county board of supervisors may ^{require} decide
 4 whether to allow a county department under 46.215, 46.22, 46.23, 51.42, or 51.437
 5 to agree to follow procedures under this section and to pay providers in accordance
 6 with agreements under subch. V of ch. 111. ^{acts}

7 (b) ^{if a} A county ^{acts} agreeing to participate under par. (a) shall notify the department
 8 and the authority of its ^{action} intention to participate. ^{has acted}

9 (3) CONSUMERS OF AUTHORITY SERVICES. If a county ^{is participating} under sub.

10 ^{Requirements for benefit} (a) ^{CS} ^{that is provided for home care services} (2) ^{provides} or through providing the family care benefit or the Program of All-Inclusive Care
 11 for the Elderly, then an adult resident of that county who is a recipient of a medical
 12 assistance benefit through the family care benefit under s. 46.286, through the
 13 Program of All-Inclusive Care for the Elderly under 42 USC 1396u-4, or through a
 14 program operated under a waiver from the secretary of the federal department of
 15 health and human services under 42 USC 1396n (c) or 42 USC 1396n (b) and (c), and
 16 who is self-directing some or all of ^{his or her} their home care services may ^{only} receive the
 17 ^{the portion of the} home care benefit if he or she hires the home care provider under this section.

18 (4) DUTIES OF HOME CARE PAYORS. Care management organizations, the state,
 19 ^{and} counties, ^{that pay} fiscal intermediaries, or individuals who hire ^{individual} home care
 20 providers ^{paying} for the provision of home care ^{services} to individuals shall inform the
 21 authority of the name, address, and telephone numbers of any provider ^{retained} by
 22 an individual receiving home care services. ^{hired}

23 (5) DUTIES OF CONSUMERS: ^A Recipients of home care services who hire ^{providers} providers
 24 ^{directly} shall:

SECTION 32

under s. 52.20(1)
(a) Hire ^{only a} providers who ^{has} been entered on the registry of providers by the authority or whose name has been submitted to the authority under par. (b).

(b) If ^{the} potential provider has not been entered on the registry, provide the name, address, and telephone number of the potential provider to the authority for evaluation of eligibility for the registry and ^{for} inclusion in the collective bargaining process under subch. V of ch. 111.

(c) Treat providers in accordance with policies established or agreements under subch V of ch. 111.

(d) Inform the authority of the name, address, and telephone numbers of any provider ^{that he or she fires} fired by a consumer.

(6) PROVIDERS. (a) A qualified provider providing home care services under this section shall be subject to the collective bargaining agreement under ^{that applies to home care providers} s. subch. V of ch. 111.

(b) A qualified provider may choose to have his or her name entered on the provider registry for hire by individuals seeking home care services under this section.

(7) DEPARTMENT RULE-MAKING. The department may promulgate rules defining terms including home care, ^{services} establishing qualifications of providers, and establishing procedures for implementation of this section.

SECTION 33. 46.48 (9) of the statutes is repealed.

SECTION 34. Chapter 52 of the statutes is created to read:

CHAPTER 52

QUALITY HOME CARE

52.01 Definitions. In this chapter:

(1) "Authority" means the Wisconsin Quality Home Care Authority.

(2) "Board" means the board of directors of the authority.

(3) "Care management organization" has the meaning given in s. 46.2805 (1).

(4) "Department" means the department of health services.

(5) "Family care benefit" means the benefit program described in s. 46.286.

(6) "Medical assistance waiver program" means a program operated under a waiver from the secretary of the federal department of health and human services under 42 USC 1396n (c) or 42 USC 1396n (b) and (c).

(7) "Program of All-Inclusive Care for the Elderly" means the program operated under 42 USC 1396u-4.

52.05 Creation and organization of authority. (1) CREATION AND MEMBERSHIP OF BOARD. There is created a public body corporate and politic to be known as the "Wisconsin Quality Home Care Authority." The members of the board shall consist of the following voting members:

(a) The secretary of the department of health services or his or her designee.

(b) The secretary of the department of workforce development or his or her designee.

(c) The following, to be appointed by the governor to serve 3 year terms:

1. One representative from the state assembly.

2. One representative from the state senate.

3. One representative of the care management organizations.

4. One representative of county departments, under 46.215, 46.22, 46.23, 51.42, or 51.437, selected from counties that do not provide the family care benefit.

5. One representative of the ~~Board for People with Developmental Disabilities~~.

6. One representative of the ~~Council on Physical Disabilities~~.

7. One representative of the ~~Council on Mental Health~~.

individuals, each of whom is a

1 8. One representative of the Board on Aging and Long-Term Care.

2 9. Eleven current or former recipients of home care services through the family
3 care benefit or a medical assistance waiver program or consumer advocates for
4 representatives of consumers. of home care services

5 (2) BOARD CONSTITUTION. The governor shall make additional appointments of
6 individuals in sub (1) (c) 9. as necessary to ensure that the majority of board members
7 are representing consumers of home care services. representatives of

8 (3) CHAIRPERSON. Annually, the governor shall appoint one member of the
9 board to serve as the chairperson.

10 (4) EXECUTIVE COMMITTEE. The board of directors shall elect an executive
11 committee. The executive committee shall consist of the chair of the board, the
12 secretary of the department of health services or his or her designee, the secretary
13 of the department of workforce development or his or her designee, and 3 persons
14 selected from board members appointed under sub. (1) (c) 9. The executive
15 committee may do the following:

16 (a) Hire an executive director who is not a member of the board and serves at
17 the pleasure of the board.

18 (b) Hire employees to carry out the duties of the authority.

19 (c) Engage in contracts for services to carry out the duties of the authority.

20 (5) TERM. The term of all members of the board appointed under sub. (1) (c) shall expire on July 1.

21 (6) QUORUM. A majority of the members of the board constitutes a quorum for
22 the purpose of conducting its business and exercising its powers and for all other
23 purposes, notwithstanding the existence of any vacancies. Action may be taken by
24 the board upon a vote of a majority of the members present. Meetings of the members
25 of the board may be held anywhere within or without the state.

1 (7) VACANCIES. Each member of the board shall hold office until a successor is
2 appointed and qualified unless the member vacates or is removed from his or her
3 office. A member who serves as a result of holding another office or position vacates
4 his or her office as a member when he or she vacates the other office or position. A
5 member who ceases to qualify for office vacates his or her office. A vacancy on the
6 board shall be filled in the same manner as the original appointment to the board for
7 the remainder of the unexpired term, if any.

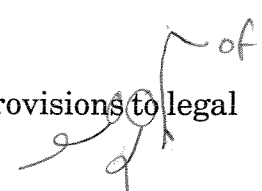
8 (8) COMPENSATION. The members of the Board shall receive no compensation
9 for the performance of their duties. The authority may reimburse members of the
10 board for actual and necessary expenses incurred in the discharge of their official
11 duties as provided by the board.

12 (9) EMPLOYMENT OF BOARD MEMBER. It is not a conflict of interest for a board
13 member to engage in private or public employment or in a profession or business,
14 except to the extent prohibited by law, while serving as a member of the board.

15 **52.10 Powers of authority.** The authority shall have all the powers
16 necessary or convenient to carry out the purposes and provisions of this chapter and
17 s. 46.2898. In addition to all other powers granted the authority under this chapter,
18 the authority may:

19 (1) Adopt policies and procedures to govern its proceedings and to carry out its
20 duties as specified in this chapter.

21 (2) Employ, appoint, engage, compensate, transfer, or discharge necessary
22 personnel.

23 (3) Make or enter into contracts, including contracts for the provisions to legal
24 or accounting services  of

25 (4) Award grants for the purposes set forth in this chapter.

(5) Buy, lease, or sell real or personal property.

(6) Sue and be sued.

(7) Accept gifts, grants, or assistance funds and use them for the purposes of this chapter.

(8) Collect fees for its services.

52.20 Duties of authority. The authority shall:

(1) Establish and maintain one or more registries of home care providers and provide referral services for individuals meeting the criteria in s. 46.2898 (3) in need of home care. *a registry*

(2) Apply qualification criteria for home care providers who seek placement on the registry and develop criteria and an appeal process for denial or removal of a provider from the registry consistent with the terms of the medical assistance waiver programs as determined by the department. *of placement on*
the family care benefit, or the Program of All-Inclusive Care for the Elderly

(3) Comply with any conditions necessary for individuals receiving home care services to receive federal medical assistance funding through a medical assistance waiver program, the family care benefit, or the Program of All-Inclusive Care for the Elderly.

(4) Develop and operate recruitment and retention programs to expand the pool of providers qualified and available to provide home care services to consumers. *home care*

(5) Maintain a list of providers included under a collective bargaining agreement *unit* under s. 111.825 (2) (g). *in* *(2g)*

(6) Notify providers providing home care services of any procedures set forth by the department or the authority and of the terms of a collective bargaining agreement under subch. V of ch. 111.

(7) Provide orientation activities and skills training for home care providers.

1 (8) (h) Provide training and support for individuals hiring a home care provider
 2 in the duties and responsibilities of employers and skills needed to be effective
 3 (B) employers.

4 (9) (a) Inform consumers of the background and qualifications of home care
 5 providers on the registry and providers identified by individual recipients for
 6 (B) employment.

7 (10) (a) Develop and operate a system of backup and respite referrals to providers
 8 (B) and a 24-hour per day call service for recipients of home care services.

9 (11) (a) Report annually to the governor on the number of providers on the registry
 10 (B) and the number of providers providing services under the authority.

11 (12) (a) Conduct activities to improve the supply and quality of direct home care
 12 workers. providers

13 **SECTION 35.** 70.11 (41s) of the statutes is created to read:

14 70.11 (41s) WISCONSIN QUALITY HOME CARE AUTHORITY. All property owned by
 15 the Wisconsin Quality Home Care Authority, provided that use of the property is
 16 primarily related to the purposes of the authority.

17 **SECTION 36.** 71.26 (1) (be) of the statutes is amended to read:

18 71.26 (1) (be) *Certain authorities.* Income of the University of Wisconsin
 19 Hospitals and Clinics Authority, of the Health Insurance Risk-Sharing Plan
 20 Authority, of the Wisconsin Quality Home Care Authority, and of the Fox River
 21 Navigational System Authority, and of the Wisconsin Aerospace Authority.

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; 2007 a. 20, 96, 97, 151, 226.

22 **SECTION 37.** 77.54 (9a) (a) of the statutes is amended to read:

23 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
 24 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health

1 Insurance Risk-Sharing Plan Authority, the Wisconsin Quality Home Care
2 Authority, and the Fox River Navigational System Authority.

History: 1971 c. 64, 154, 215, 311; 1973 c. 90, 156, 240; 1975 c. 39, 96, 102, 146, 200; 1977 c. 29; 1977 c. 83 ss. 13, 26; 1977 c. 250, 368, 418; 1979 c. 1, 34, 87, 174; 1981 c. 20; 1981 c. 79 s. 18; 1981 c. 96 s. 67; 1981 c. 264; 1981 c. 282 s. 47; 1981 c. 317; 1983 a. 27 ss. 1284d to 1284np, 2202 (38); 1983 a. 189 ss. 101, 106, 329 (5), (12), (13); 1983 a. 192, 287, 405, 426, 498, 510, 538, 544; 1985 a. 29, 149, 332; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31, 238, 270, 335, 359; 1991 a. 37, 39, 269, 316; 1993 a. 16, 263, 332; 1995 a. 27, 125, 225, 227; 1997 a. 27, 35, 41, 184, 237, 291; 1999 a. 9, 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 103, 109; 2003 a. 99, 128; 2005 a. 25, 74, 141, 149, 335, 366, 479; 2007 a. 11, 19, 20, 97, 130.

3 **SECTION 38.** 100.45 (1) (dm) of the statutes is amended to read:

4 100.45 (1) (dm) "State agency" means any office, department, agency,
5 institution of higher education, association, society or other body in state
6 government created or authorized to be created by the constitution or any law which
7 is entitled to expend moneys appropriated by law, including the legislature and the
8 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
9 Center Sports and Entertainment Corporation, the University of Wisconsin
10 Hospitals and Clinics Authority, the Wisconsin Health and Educational Facilities
11 Authority, the Wisconsin Aerospace Authority, the Wisconsin Quality Home Care
12 Authority, and the Fox River Navigational System Authority.

History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1997 a. 27, 165; 1999 a. 31; 2001 a. 16; 2005 a. 335.

13 **SECTION 39.** 101.177 (1) (d) of the statutes is amended to read:

14 101.177 (1) (d) "State agency" means any office, department, agency,
15 institution of higher education, association, society, or other body in state
16 government created or authorized to be created by the constitution or any law, that
17 is entitled to expend moneys appropriated by law, including the legislature and the
18 courts, the Wisconsin Housing and Economic Development Authority, the Bradley
19 Center Sports and Entertainment Corporation, the University of Wisconsin
20 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Wisconsin
21 Quality Home Care Authority, and the Wisconsin Health and Educational Facilities

- 1 Authority, but excluding the Health Insurance Risk-Sharing Plan Authority and the
2 Lower Fox River Remediation Authority.

History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1997 a. 27; 2005 a. 74, 335; 2007 a. 20, 97.

- 3 **SECTION 40.** 281.75 (4) (b) 3. of the statutes is amended to read:

- 4 281.75 (4) (b) 3. An authority created under subch. II of ch. 114 or ch. 52, 231,
5 233, 234, or 237.

History: 1983 a. 410; 1985 a. 22, 29; 1989 a. 31; 1991 a. 39; 1993 a. 413; 1995 a. 27 ss. 4208 to 4210, 9116 (5); 1995 a. 227 s. 401; Stats. 1995 s. 281.75; 1997 a. 27; 2001 a. 16; 2005 a. 123, 335; 2007 a. 20.

- 6 **SECTION 41.** 285.59 (1) (b) of the statutes is amended to read:

- 7 285.59 (1) (b) "State agency" means any office, department, agency, institution
8 of higher education, association, society or other body in state government created
9 or authorized to be created by the constitution or any law which is entitled to expend
10 moneys appropriated by law, including the legislature and the courts, the Wisconsin
11 Housing and Economic Development Authority, the Bradley Center Sports and
12 Entertainment Corporation, the University of Wisconsin Hospitals and Clinics
13 Authority, the Fox River Navigational System Authority, the Wisconsin Aerospace
14 Authority, the Wisconsin Quality Home Care Authority, and the Wisconsin Health
15 and Educational Facilities Authority.

History: 1989 a. 284; 1991 a. 97; 1993 a. 243; 1995 a. 227 s. 509; Stats. 1995 s. 285.59; 1997 a. 27; 2001 a. 16; 2005 a. 335.

- 16 **SECTION 42.** 704.31 (3) of the statutes is amended to read:

- 17 704.31 (3) This section does not apply to a lease to which a local professional
18 baseball park district created under subch. III of ch. 229, the Wisconsin Quality
19 Home Care Authority, or the Fox River Navigational System Authority is a party.

History: 1993 a. 486; 1995 a. 56; 2001 a. 16.

- 20 **SECTION 43. Nonstatutory provisions.**

- 21 (1) INITIAL TERMS OF WISCONSIN QUALITY HOME CARE AUTHORITY BOARD.

- 22 Notwithstanding the lengths of terms of the members of the board of the Wisconsin

use
budget
nonstat
compar

j

Wisconsin Quality
Home Care Authority

B

e 9155m

specified for

(1)(c)
1 Quality Home Care Authority specified in section 52.05 of the statutes, as created
2 by this act, the initial members shall be appointed for the following terms:

3 (a) One member each from section 52.05 (1) (c) 1. and 3., as created by this act,
4 and 3 members from section 52.05 (1) (c) 9., as created by this act, for terms that
5 expire on July 1, 2010. Specified under of the statutes

6 (b) One member each from section 52.05 (1) (c) 2., 4., and 6., as created by this
7 act, and 4 members from section 52.05 (1) (c) 9., as created by this act, for terms that
8 expire July 1, 2011. 7

9 (c) One member each from section 52.05 (1) (c) 5., 6., and 8., as created by this
10 act, and 4 members from section 52.05 (1) (c) 9., as created by this act, for terms that
11 expire July 1, 2012.

12 (2) INITIAL CHAIRPERSON OF WISCONSIN QUALITY HOME CARE AUTHORITY BOARD

13 The secretary of the department of health services, or his or her designee, shall serve
14 as the initial chairperson of the board until such time as the governor designates a
15 member of the board to serve as its chair.

16 (END)

<use 3x>

The members specified under

D-41

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1382/plinsch

CMH:.....

SAV
Insert

SECTION 1. 111.81 (3h) of the statutes is created to read:

111.81 **(3h)** "Consumer" means a person to whom a home care provider provides services at the will of the person.

****NOTE: Per the comments from OSER, I put the providers under SELRA, not MERA, OK?

SECTION 2. 111.81 (7) (g) of the statutes is created to read:

111.81 **(7)** (g) For purposes of this subchapter only, home care providers. This ~~definition~~ ^{paragraph} does not make home care providers state employees for any other purpose except collective bargaining.

SECTION 3. 111.81 (9k) of the statutes is created to read:

111.81 **(9k)** "Home care provider" means a qualified provider under s. 46.2808
(1) (e).

SECTION 4. 111.825 (2g) of the statutes is created to read:

111.825 **(2g)** A collective bargaining unit for home care providers shall be structured as a single statewide collective bargaining unit.

SECTION 5. 111.825 (3) of the statutes is amended to read:

111.825 **(3)** The commission shall assign employees to the appropriate collective bargaining units set forth in subs. (1), (1m) ~~and~~, (2), ~~and~~ (2g).

History: 1985 a. 29; 1985 a. 42 ss. 4 to 6, 8, 18; 1985 a. 332; 1987 a. 331; 1989 a. 31; 1995 a. 27, 251, 324; 1997 a. 24; 2001 a. 16; 2005 a. 253.

SECTION 6. 111.825 (4) of the statutes is amended to read:

111.825 **(4)** Any labor organization may petition for recognition as the exclusive representative of a collective bargaining unit specified in sub. (1), (1m) ~~or~~, (2), ~~or~~ (2g) in accordance with the election procedures set forth in s. 111.83, provided the petition is accompanied by a 30% showing of interest in the form of signed authorization

cards. Each additional labor organization seeking to appear on the ballot shall file petitions within 60 days of the date of filing of the original petition and prove, through signed authorization cards, that at least 10% of the employees in the collective bargaining unit want it to be their representative.

History: 1985 a. 29; 1985 a. 42 ss. 4 to 6, 8, 18; 1985 a. 332; 1987 a. 331; 1989 a. 31; 1995 a. 27, 251, 324; 1997 a. 24; 2001 a. 16; 2005 a. 253.

SECTION 7. 111.83 (1) of the statutes is amended to read:

111.83 (1) Except as provided in sub- subs. (5) and (5m), a representative chosen for the purposes of collective bargaining by a majority of the employees voting in a collective bargaining unit shall be the exclusive representative of all of the employees in such unit for the purposes of collective bargaining. Any individual employee, or any minority group of employees in any collective bargaining unit, may present grievances to the employer in person, or through representatives of their own choosing, and the employer shall confer with said employee or group of employees in relation thereto if the majority representative has been afforded the opportunity to be present at the conference. Any adjustment resulting from such a conference may not be inconsistent with the conditions of employment established by the majority representative and the employer.

History: 1971 c. 270; 1975 c. 238; 1985 a. 42; 1989 a. 336; 1995 a. 27; 2003 a. 33.

SECTION 8. 111.83 (5m) of the statutes is created to read:

111.83 (5m) (a) This subsection applies only to a collective bargaining unit specified in s. 111.825 (2g).

(b) Upon the filing of a petition with the commission indicating a showing of interest of at least 30 percent of the home care providers included in the collective bargaining unit under s. 111.825 (2g) to be represented by a labor organization or to change the existing representative, the commission shall hold an election in which the home care providers may vote on the question of representation. The labor

organization named in the petition shall be included on the ballot. Within 60 days of the time that the petition is filed, another petition may be filed with the commission indicating a showing of interest of at least 10 percent of the home care providers who are included in the collective bargaining unit under s. 111.825 (2g) to be represented by another labor organization, in which case the name of that labor organization shall also be included on the ballot.

(c) If at an election held under par. (b), a majority of home care providers voting in the collective bargaining unit vote for a single labor organization, the labor organization shall be the exclusive representative for all home care providers in that collective bargaining unit. If no single labor organization receives a majority of the votes cast, the commission may hold one or more runoff elections under sub. (4) until one labor organization receives a majority of the votes cast.

SECTION 9. 111.905[^] of the statutes is created to read:

111.905 Rights of consumer. (1) This subchapter does not interfere with the rights of the consumer to hire, discharge, suspend, promote, retain, lay off, supervise, or discipline home care providers or to set terms, conditions, and duties of employment.

(2) A home care provider is an at will provider of home care services to a consumer and this subchapter does not interfere with that relationship.

SECTION 10. 111.91[^] (1) (cg) of the statutes is created to read:

111.91 **(1)** (cg) The representative of home care providers may not bargain collectively with respect to any matter other than wages and fringe benefits.

SECTION 11. 111.91[^] (2c) of the statutes is created to read:

in the collective
bargaining unit
specified under
s. 118.81(2g)

111.91 (2c) In addition to the prohibited subjects under sub. (2), the employer is prohibited from bargaining with a collective bargaining unit formed under s. 111.825 (2g) on any of the following:

- (a) Policies.
- (b) Work rules.
- (c) Hours of employment.
- (d) Any right of the consumer under s. 111.905

SECTION 12. 111.92 (1) (a) of the statutes is amended to read:

111.92 (1) (a) Any tentative agreement reached between the office, acting for the state, and any labor organization representing a collective bargaining unit specified in s. 111.825 (1) or (2) (a) to (e), or (2g) shall, after official ratification by the labor organization, be submitted by the office to the joint committee on employment relations, which shall hold a public hearing before determining its approval or disapproval. If the committee approves the tentative agreement, it shall introduce in a bill or companion bills, to be put on the calendar or referred to the appropriate scheduling committee of each house, that portion of the tentative agreement which requires legislative action for implementation, such as salary and wage adjustments, changes in fringe benefits, and any proposed amendments, deletions or additions to existing law. Such bill or companion bills are not subject to ss. 13.093 (1), 13.50 (6) (a) and (b) and 16.47 (2). The committee may, however, submit suitable portions of the tentative agreement to appropriate legislative committees for advisory recommendations on the proposed terms. The committee shall accompany the introduction of such proposed legislation with a message that informs the legislature of the committee's concurrence with the matters under consideration and which recommends the passage of such legislation without change. If the joint committee

on employment relations does not approve the tentative agreement, it shall be returned to the parties for renegotiation. If the legislature does not adopt without change that portion of the tentative agreement introduced by the joint committee on employment relations, the tentative agreement shall be returned to the parties for renegotiation.

History: 1971 c. 270; 1977 c. 196 s. 130 (9); 1981 c. 20 s. 2202 (33) (b); 1981 c. 126, 391; 1985 a. 42 s. 29; 1989 a. 336; 1995 a. 27; 2001 a. 16; 2003 a. 33.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1382/P1dn

TJD:/:....

js

7
Do you want a county
to be able to withdraw
from participation? If so,
do you have any additional
criteria for withdrawal?

To Laurie Palchik:

Please review this preliminary draft to ensure it complies with your intent. I may have changes to this draft as I continue to edit it, and I have some questions from our meeting last week to clarify before the final version.

In our meeting with Gail Propsom we discussed the collection of fees as a power of the authority. I have left this power as is, but we were not sure who, if anyone, would be paying fees. If there are additional provisions on the collection of fees you would like included in the draft, please let me know.

Since DHS will be the party for purposes of the collective bargaining agreement and since the authority will not be providing payroll services, the function of the authority seems to be to maintain a registry of providers and keep a list of providers subject to the collective bargaining agreement. With so many functions, and funding, being under the auspices of DHS, I wonder whether it is necessary to have an authority at all. Perhaps a board or commission attached to DHS or DOA would be more appropriate.

Section 16.61 prescribes procedures for state records and does not explicitly include authorities, except in certain selected provisions. I have left the Wisconsin Quality Home Care Authority out of these provisions for now. Is that okay?

On your list of provisions for the authority, you indicated you wanted the authority included in the ethics provisions. I have added the executive director and board members of the authority as officials required to submit a financial disclosure for conflict of interest and ethics purposes under s. 19.42. Is that okay? I do not believe I mentioned this specific provision in our meeting or during our telephone conversation.

Section 19.82 subjects authorities to open meetings laws. The authorities are currently included in those provisions and I have left the Wisconsin Quality Home Care Authority in those provisions for now. Is that okay?

The Wisconsin Quality Home Care Authority, as a body politic and corporate, is included in ch. 133, the anti-monopoly statutes. It does not appear any authority has been exempted from these statutes, so I have left the statute as is with the Wisconsin Quality Home Care Authority included. Is that okay?

Section 35.81 (2) includes authorities in the definition of "state agency" for purposes of the state document repository and distribution of state documents in ch. 35. I have left the Wisconsin Quality Home Care Authority included in these provisions. Is that okay? ✓

Should you have any questions or comments, please contact me. ✓

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1382/P1dn
TJD:cjs:rs

January 21, 2009

To Laurie Palchik:

Please review this preliminary draft to ensure it complies with your intent. I may have changes to this draft as I continue to edit it, and I have some questions from our meeting last week to clarify before the final version.

In our meeting with Gail Propsom we discussed the collection of fees as a power of the authority. I have left this power as is, but we were not sure who, if anyone, would be paying fees. If there are additional provisions on the collection of fees you would like included in the draft, please let me know.

Do you want a county to be able to withdraw from participation? If so, do you have any additional criteria for withdrawal?

Since DHS will be the party for purposes of the collective bargaining agreement and since the authority will not be providing payroll services, the function of the authority seems to be to maintain a registry of providers and keep a list of providers subject to the collective bargaining agreement. With so many functions, and funding, being under the auspices of DHS, I wonder whether it is necessary to have an authority at all. Perhaps a board or commission attached to DHS or DOA would be more appropriate.

Section 16.61 prescribes procedures for state records and does not explicitly include authorities, except in certain selected provisions. I have left the Wisconsin Quality Home Care Authority out of these provisions for now. Is that okay?

On your list of provisions for the authority, you indicated you wanted the authority included in the ethics provisions. I have added the executive director and board members of the authority as officials required to submit a financial disclosure for conflict of interest and ethics purposes under s. 19.42. Is that okay? I do not believe I mentioned this specific provision in our meeting or during our telephone conversation.

Section 19.82 subjects authorities to open meetings laws. The authorities are currently included in those provisions and I have left the Wisconsin Quality Home Care Authority in those provisions for now. Is that okay?

The Wisconsin Quality Home Care Authority, as a body politic and corporate, is included in ch. 133, the anti-monopoly statutes. It does not appear any authority has

been exempted from these statutes, so I have left the statute as is with the Wisconsin Quality Home Care Authority included. Is that okay?

Section 35.81 (2) includes authorities in the definition of "state agency" for purposes of the state document repository and distribution of state documents in ch. 35. I have left the Wisconsin Quality Home Care Authority included in these provisions. Is that okay?

Should you have any questions or comments, please contact me.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

Dodge, Tamara

From: Dodge, Tamara
Sent: Tuesday, January 20, 2009 9:57 AM
To: Palchik, Laurie A - DOA
Subject: Home care authority LRB-1382

Laurie –

This is regarding the Wisconsin Quality Home Care Authority draft. I am hoping it comes over sometime today.

I just wanted to let you know that I checked with other attorneys here about some of my questions. I made sure that it was fine that chapters 103 and 104, which deal with general employment requirements such as family leave and minimum wage, included the authority. Actually, for those chapters the requirement pertains to the employer, which would actually be the individual consumer. But, that is fine as well and there is no conflict with the purpose of the draft to leave it as is. The authority should be excluded from ch. 40, which it is, and from ch. 230, which I will make sure and add to the next draft if necessary.

Authorities are included in the business chapter, ch. 180, under the definition of entity. I talked to the drafter in this area. He indicated that the inclusion of authority is mainly to describe a body with which a corporation can interact. There are not specific requirements placed on authorities. It appears fine that the authority is included. No authorities have been exempted. Let me know if you want the authority exempted.

I remembered that we discussed HIPAA and making sure the release of providers' names to the authority did not run afoul of HIPAA. I will add a provision to the next draft.

- Tami

Tamara J. Dodge

Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

Dodge, Tamara

From: Hanaman, Cathlene
Sent: Thursday, January 22, 2009 5:17 PM
To: Dodge, Tamara
Subject: FW: LRB Draft: 09-1382/P1 Wisconsin Quality Home Care Authority
Importance: High
Attachments: DHS Comments on QHCA draft 2.doc

From: Palchik, Laurie A - DOA [mailto:laurie.palchik@wisconsin.gov]
Sent: Thursday, January 22, 2009 5:11 PM
To: Hanaman, Cathlene
Subject: FW: LRB Draft: 09-1382/P1 Wisconsin Quality Home Care Authority
Importance: High

The DHS comments for the QHCA draft if you could please forward to Tami Dodge. This culmination of comments in addition to the previous email make up all of the individuals who were necessary to review the draft. I'll be back in the office tomorrow to talk with Tami directly if she has any questions. Thank you.

From: Propsom, Gail F - DHS
Sent: Thursday, January 22, 2009 5:09 PM
To: Palchik, Laurie A - DOA
Cc: Forsaith, Andrew C - DHS; Wild, Mark - OSER; Mickelson, Wil - OSER; Vang, Yer - OSER; Pankratz, Jim - OSER
Subject: RE: LRB Draft: 09-1382/P1 Wisconsin Quality Home Care Authority

Laurie, Here are the comments from DHS. Neil Gebhart and Shelley Malofsky reviewed the draft in addition to those of us who have been involved in the discussions. Gail

From: Palchik, Laurie A - DOA
Sent: Wednesday, January 21, 2009 2:38 PM
To: Holmes, Rea L - DHS; Forsaith, Andrew C - DHS; Propsom, Gail F - DHS; Wild, Mark - OSER; Mickelson, Wil - OSER; Vang, Yer - OSER; Pankratz, Jim - OSER; Santala, Sinikka S - DHS; Wong, Donna J - DHS
Subject: FW: LRB Draft: 09-1382/P1 Wisconsin Quality Home Care Authority

Attached is the Quality Home Care Authority draft statutory language. Please coordinate your comments and send back to me any necessary changes. Our timeline has shrunk so please let me know if you cannot address by the close of business tomorrow. Thank you everyone.

Laurie A. Palchik
Executive Policy and Budget Analyst
Division of Executive Budget and Finance
Department of Administration
608-266-2214 (w); 608-267-0372 (f)

From: Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]
Sent: Wednesday, January 21, 2009 2:33 PM
To: Palchik, Laurie A - DOA
Cc: Gauger, Michelle C - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA
Subject: LRB Draft: 09-1382/P1 Wisconsin Quality Home Care Authority

Following is the PDF version of draft 09-1382/P1.

DHS Comments on QHCA Draft

Statutory Provisions Relating to the Authority

1. The Quality Home Care Authority (QHCA) members and executive director are included in the ethics provisions for purposes of officials that must file. The Board members would be included as a state public official for purposes of prohibited acts because they are appointed by the Governor. The executive director, however, is hired by the QHCA board and wouldn't clearly be under the ethics provisions. The definition of state public office at 19.42(13) should be expanded to include the QHCA Executive Director; other authorities are noted there.

2. The Authority is subject to the open meetings laws because it is a public body corporate and politic created by statute. S. 52.05(6) allows meetings to be held outside the state, which is conceptually inconsistent.

3. Both the HIRSP and UW Hospital and Clinics authorities, as examples, include liability limitation language. The original intent was to contain the QHCA liability so unless current intent is contrary, it should be included here. The language is at 149.53(1) and 233.17(1).

Applicability of the QHCA and Collective Bargaining

4. P 13 lines 19 to 23 - The list should also include the Wisconsin Partnership Program [Partnership is operated under the HCB waiver citations that are already included in the language, but the Department thinks that the program should be referenced directly.] and personal care under a state plan amendment under s. 1915(j) of the Social Security Act. [This is a state plan amendment that is in process in the Department. It will be operated in conjunction with IRIS.]

5. P 19 lines 10 to 18 - Partnership, and personal care under a SPA under SSA s. 1915(j) also need to be included. [see item 4]

6. P. 14, lines 7-13 - In lines 7-8, reference is made to a county that "provides" Family Care or PACE. Counties are frequently not the providers of Family Care and no county provides PACE. The language needs to refer to a county in which Family Care is available or to a provider of Family Care or PACE. In Milwaukee it would only apply to part of the waiver population. This language is critical to defining who must cooperate with the QHCA and the collective bargaining process. The language should be drafted to clearly include:

- All Family Care, PACE and Partnership participants who are acting as the employer of record for a home care provider.
- All IRIS participants who are acting as the employer of record for a home care provider.
- Participants in a state plan amendment under 1915 (j) [see item 4]
- In a county that elects to participate, all adult waiver participants who are acting as the employer of record for a home care provider.

7. P. 14, the new s. 46.2898(5) -- Should this be drafted more precisely so that it's crystal clear that we are referring only to the recipients under s.46.2898(5)?

*amendment
to the
state
medical
assistance
plan
42 USC 1396n (3)*

8. P. 14, lines 14-16 – Indicates that a participant can get the portion of the benefit that is provided for home care services only if a qualified provider is hired. This should be limited to the portion of the home care benefit that the person is self-directing (that is, hiring an individual to provide the services). Some people may use a combination of agency provided and self-directed care.

9. P. 14, Lines 17-21 – Eliminate fiscal intermediaries from the list of entities that must give information to the Authority. It may be the fiscal intermediary that does the task, but the responsibility should be on the CMO, state or county. An individual would not be able to hire the provider without informing the CMO, state or county or its agent. It may not be reasonable to require the individual to report.

10. P. 16, line 23 – See item 1. Counties frequently do not provide Family Care even if it exists in the county. The language could read “counties in which the family care benefit is not available to all eligible populations.” (This would cover Milwaukee)

11. P. 13, lines 10-17 – Either this section should be drafted more broadly to include employees of agencies that provide “home care” or employees of supportive home care agencies should be specifically exempted. There are supportive home care agencies that don’t fit under home health or PC that should be exempted. Employees of independent living centers (ILCs) and county agencies probably should also be exempted or personal care provider agency defined in rule to include ILCs and county agencies.

Collective Bargaining

12. P 22 Lines 5 to 6 - Shouldn't "consumer" be limited to those whose care is paid for through Family Care, etc? Unless the term is limited it would seem to extend to care arrangements paid for with private funds.

13. ‘Consumer’ in the Ch. 111 provisions is not defined as limited to a Family Care/ waivers/Partnership/PACE recipient. It doesn’t need to be but I want to make sure that the language is consistent with the intent.

14. The intent is that DHS would be the representative for the collective bargaining process, bargaining with any union that successfully organizes the home care workers. There is no explicit language regarding this in the draft -- is it implicit somehow in Chapter 111?

15. The draft is silent on the mechanism for funding any wage increases in the Family Care budget. My understanding is that in future biennia, funds would be budgeted in the MA budget in future biennial budgets for anticipated contract increases. Does current law chapter 111 limit collective bargaining to the amounts budgeted for contract increases? In addition, given that no funding is budgeted in the 09-11 biennium, should there be a provision stating that collective bargaining agreements can not become effective earlier than FY12?

16. In 46.2898(5) a consumer may hire a provider who is on the registry or whose name is given to the authority for evaluation of eligibility for the registry. There's a gap because there's no provision for what happens if the authority does not find the person eligible for inclusion. I assume the intent is that a person can be a provider while s/he is being evaluated so there's no delay for the consumer getting services, but then there should be language to cover the contingency that the person isn't registry-eligible.

17. P 24 lines 21 to 23 - the term "fringe benefits" is used a number of times in Ch. 111 but not defined, so is it safe to assume the term has a well-established meaning for purposes of collective bargaining?

18. P 24 line 20 to P 25 line 7 - taken together, these two provisions are unclear - if the first were literally true (i.e., if bargaining were limited to those 2 subjects), there would be no need for the second (expressly listing prohibited subjects of bargaining)

Miscellaneous

19. S. 46.48(9) -- the draft repeals the paragraph that provides grant funds to the Dane County QHCC. Laurie at DOA mentioned that they would be adding new language to s. 46.48 regarding the new grant funds to the statewide authority and that they would allow us to use the funds to pay the remaining months of the Dane County commission. We are adding this note as a reminder that needs to be added.

20. P 14 lines 2 to 3 - "follow procedures under this section" is unclear

21. P 15 line 8 - "treat" is unclear - this provision probably should list all of the aspects of the relationship between the recipient and the provider that is to be governed by the CBA

22. P 14 lines 5 to 6 - needs revision - add "it" before "shall"?

23. P 19 lines 6ff - it needs to be made clear that DHS as State Medicaid Agency has authority to determine whether providers are qualified to provide Medicaid services

24. P 19, line 13 -A space is missing in" family care."

Dodge, Tamara

From: Hanaman, Cathlene
Sent: Thursday, January 22, 2009 6:03 PM
To: Palchik, Laurie A - DOA; Dodge, Tamara
Subject: RE: Quality Home care authority LRB-1382

Laurie: I did create a new bargaining unit under 111.825 (2g). You don't want it under 111.825, as suggested, because that is for classified employees per the intro.

And then Section 44 has the commission assigning the providers, as defined in the chapter to the unit.

IMPORTANT: 111.825 (1) Wis. Stats., should be modified to include a new bargaining unit called "Home care". This is because if the bill allows home care providers to be assigned to one of the current bargaining units in SELRA, the home care providers would be in the same bargaining unit as state employees (such as resident care technicians). Since the home care providers are not state employees, and since there may be times we want to negotiate pay rates and/or fringe benefits different from that of state employees, they should be in a separate bargaining unit than state employees.

IMPORTANT, due to the above suggested change to 111.825 (1), section 44 of the draft would need to be modified also. OSER suggests removing the draft changes to section 111.825 (3) and instead adding another sentence to 111.825 (3) stating something like: "The Commission shall assign providers, as defined by 46.2898 (1) (d), to the Home Care bargaining unit in sub. 111.825 (1)." Finally, the addition of "2g" can then be deleted from section 45 of the draft.

From: Palchik, Laurie A - DOA [<mailto:laurie.palchik@wisconsin.gov>]
Sent: Thursday, January 22, 2009 4:18 PM
To: Hanaman, Cathlene
Subject: FW: Quality Home care authority LRB-1382

Hi Cathlene, could you forward these changes to Tami Dodge. Unless I receive an email from Tami and respond directly to her I can't find her in the global email address and she doesn't come up when I type in her full email address. Sorry for the inconvenience.

These are the first review changes from OSER regarding the QHCA draft LRB-1382

Thank you for your help.

From: Wild, Mark - OSER
Sent: Thursday, January 22, 2009 12:38 PM
To: Palchik, Laurie A - DOA; Holmes, Rea L - DHS; Forsaith, Andrew C - DHS; Propsom, Gail F - DHS; Wong, Donna J - DHS; Santala, Sinikka S - DHS; Pankratz, Jim - OSER; Vang, Yer - OSER; Mickelson, Wil - OSER
Subject: RE: Quality Home care authority LRB-1382

Here are OSER's suggested changes to the draft:

Section 31 it states: "hired directly by an enrollee." Shouldn't "enrollee" be "consumer" or "individual who hires a provider" instead?

Section 32, page 14, 2(b), it appears that a word is missing. Should it say: "If a county acts under par. (a) [it] shall notify the department and the authority of its action."

Section 32, page 15, 5 (c), OSER would prefer the word "Pay" be substituted for "Treat". The word "Treat" has a connotation that could lead to a belief that the law was intended to allow the "treatment" of providers by consumers to be a subject that can be negotiated into the collective bargaining agreement whereas "conditions of employment" were specifically removed from the draft as a negotiable subject.

IMPORTANT: 111.825 (1) Wis. Stats., should be modified to include a new bargaining unit called "Home care". This is because if the bill allows home care providers to be assigned to one of the current bargaining units in SELRA, the home care providers would be in the same bargaining unit as state employees (such as resident care technicians). Since the home care providers are not state employees, and since there may be times we want to negotiate pay rates and/or fringe benefits different from that of state employees, they should be in a separate bargaining unit than state employees.

IMPORTANT, due to the above suggested change to 111.825 (1), section 44 of the draft would need to be modified also. OSER suggests removing the draft changes to section 111.825 (3) and instead adding another sentence to 111.825 (3) stating something like: "The Commission shall assign providers, as defined by 46.2898 (1) (d), to the Home Care bargaining unit in sub. 111.825 (1)." Finally, the addition of "2g" can then be deleted from section 45 of the draft.

Section 47, page 24, line 3, change "percent" to "%" to be consistent.

Section 49, page 24, line 22, it appears s. 118.81(2g) should be s. 111.825(2g).

IMPORTANT, OSER understands that it will submit tentative agreements to JCOER as stated in section 51, however, section 111.815 Wis. Stats., needs to be modified to make it clear that DHS (not OSER) is responsible for negotiating and administering the collective bargaining agreement between the state and any representative of the Home Care bargaining unit. As we discussed, OSER will be in consultation with DHS as necessary.

Let me know if you have any questions,

Mark Wild

From: Palchik, Laurie A - DOA

Sent: Wednesday, January 21, 2009 2:58 PM

To: Holmes, Rea L - DHS; Forsaith, Andrew C - DHS; Propsom, Gail F - DHS; Wong, Donna J - DHS; Santala, Sinikka S - DHS; Wild, Mark - OSER; Pankratz, Jim - OSER; Vang, Yer - OSER; Mickelson, Wil - OSER

Subject: FW: Quality Home care authority LRB-1382

Additional comments by the drafter for the QHCA for your consideration (see below).

Lastly, language will be included in ch. 46 for DHS to distribute the grant funds to the Authority similar to how the grant funds are currently distributed to Dane County. This isn't included in the draft you are reviewing, this is a decision that was just discussed.

Thanks again.

Laurie A. Palchik
Executive Policy and Budget Analyst
Division of Executive Budget and Finance
Department of Administration
608-266-2214 (w); 608-267-0372 (f)

From: Dodge, Tamara [<mailto:Tamara.Dodge@legis.wisconsin.gov>]

Sent: Tuesday, January 20, 2009 9:57 AM

To: Palchik, Laurie A - DOA
Subject: Home care authority LRB-1382

Laurie –

This is regarding the Wisconsin Quality Home Care Authority draft.

I just wanted to let you know that I checked with other attorneys here about some of my questions. I made sure that it was fine that chapters 103 and 104, which deal with general employment requirements such as family leave and minimum wage, included the authority. Actually, for those chapters the requirement pertains to the employer, which would actually be the individual consumer. But, that is fine as well and there is no conflict with the purpose of the draft to leave it as is. The authority should be excluded from ch. 40, which it is, and from ch. 230, which I will make sure and add to the next draft if necessary.

Authorities are included in the business chapter, ch. 180, under the definition of entity. I talked to the drafter in this area. He indicated that the inclusion of authority is mainly to describe a body with which a corporation can interact. There are not specific requirements placed on authorities. It appears fine that the authority is included. No authorities have been exempted. Let me know if you want the authority exempted.

I remembered that we discussed HIPAA and making sure the release of providers' names to the authority did not run afoul of HIPAA. I will add a provision to the next draft.

- Tami

Tamara J. Dodge
Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov